



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

CCO/145049

PRELIMINARY RECITALS

Pursuant to a petition filed November 06, 2012, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Early Care Administration - MECA in regard to Child Care, a hearing was held on January 08, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly seeks to recover an overpayment of child care benefits in the amount of \$917.58 for the period of June 10, 2012 – July 31, 2012.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue
Madison, Wisconsin 53703

By: Tamika Terrell

Milwaukee Early Care Administration - MECA
Department of Children And Families
1220 W. Vliet St. 2nd Floor, 200 East
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On October 4 and 5, 2012, the agency issued Child Care Overpayment Notices and worksheets to the Petitioner informing her that the agency intends to recover an overpayment of child care benefits in the amount of \$917.58 for the period of June 10, 2012 – July 31, 2012.
3. On May 14, 2012 and May 29, 2012, the Petitioner received Child Care Authorization Information notices from the agency. The notices informed the Petitioner of the hours for which child care was authorized. The notices also informed the Petitioner of her responsibility to report changes in her circumstances that could affect eligibility or authorization for child care within 10 days of the date the change took place. She was informed that she must report when she is no longer employed. It further informed her that she was not eligible for child care benefits when in job search activities outside of the W-2 program.
4. Prior to June 8, 2012, the Petitioner was employed at Lakeside Buses of Wisconsin. On June 8, 2012, she was laid off.
5. Petitioner did not receive documentation of the lay off from her employer until June 22, 2012.
6. Petitioner notified the agency of her employment ending on July 30, 2012. She provided verification of employment ending to the agency on August 1, 2012.
7. On July 16, 2012, the agency issued a Notice of Eligibility Child Care informing the Petitioner that her child care eligibility would end on July 31, 2012.
8. On July 31, 2012, the Petitioner applied for W-2 benefits and started W-2 activities. She was placed in a Community Service Job (CSJ) on August 8, 2012.

DISCUSSION

Wis. Stat. § 49.155 authorizes the department to operate a child care subsidy for Wisconsin Works (W-2) recipients and working parents. The subsidy program is known as Wisconsin Shares. The Department of Children and Families has a Wisconsin Shares Child Care Manual that provides the specific activities, policies and eligibility requirements (including a discussion of income limits and other non-financial requirements) to qualify for the program.

The purpose of the Wisconsin Shares Child Care program is to provide child care assistance for working low-income families; working foster parents, kinship care relatives providing care under a court order and receiving kinship care benefits, and subsidized guardians/interim caretakers in Milwaukee County; and for individuals who are preparing for employment through Wisconsin Works, Food Share Employment and Training Program, tribal Temporary Assistance for Needy Families (TANF), or are in high school and working on their high school diploma.

Wisconsin Shares Child Care Manual, § 1.1.1.

Every parent in the family/Assistance Group (AG) must need child care to participate in an approved activity or activities(s). Wisconsin Shares Manual § 1.4.8.

A parent is eligible for child care services if he/she needs the care to:

Work in an unsubsidized job, including training provided by an employer during the hours of employment (Wisconsin Shares Manual, § 1.5.3)

or to

Participate in a course of study at a technical college or participate in a course of study that would produce an employment skill as determined by the department if the county Human Services or other agency or its subcontracted eligibility determination agency determines that the course or courses would facilitate the individual to maintain employment. An individual approved for this activity must be employed at least five (5) hours per week or 20 hours per month at the time the authorization for school begins and continues to be employed at least five (5) hours per week or 20 hours per month throughout the semester. (Wisconsin Shares Manual § 1.5.7.).

In this case, when Petitioner ended her employment, without obtaining a new job or enrolling in an *approved* W-2 activity, she lost her eligibility for child care benefits. At the hearing, Petitioner did not dispute that she did not inform the agency within 10 days that her employment had ended. She argued that she faxed the layoff notice, a statement of her school schedule and a housing authority document to the agency on June 25, 2012 though she was unable to provide evidence that the agency received the information. She concedes she did not apply for W-2 until July 30, 2012 and did not receive agency approval of her school study prior to the start of her classes. She also was not employed at least 5 hours/week or 20 hours/month at the time she was enrolled in school. Thus, she was not in an approved activity from June 8, 2012 – July 31, 2012 as that term is defined in the Wisconsin Shares Manual.

She further testified that she did not think she should call to report that she had been laid off until she received documentation from her employer. She received that verification on June 22, 2012. The notices the Petitioner received regarding her child care benefits clearly outline her responsibility to report that her employment ended within 10 days.

Based on the evidence, I must conclude that the agency correctly seeks to recover child care benefits for the period of June 10, 2012 – July 31, 2012. I have reviewed the agency's overpayment worksheet and child care benefit issuance history and conclude that the amount of overpaid benefits is accurate.

CONCLUSIONS OF LAW

The agency properly seeks to recover an overpayment of child care benefits in the amount of \$917.58 for the period of June 10, 2012 – July 31, 2012.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

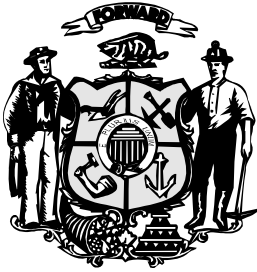
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of February, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 22, 2013.

Milwaukee Early Care Administration - MECA
Public Assistance Collection Unit
Child Care Fraud